

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-192
HOUSE BILL 589**

AN ACT TO REFORM NORTH CAROLINA'S APPROACH TO INTEGRATION OF RENEWABLE ELECTRICITY GENERATION THROUGH AMENDMENT OF LAWS RELATED TO ENERGY POLICY AND TO ENACT THE DISTRIBUTED RESOURCES ACCESS ACT.

The General Assembly of North Carolina enacts:

PART I. STANDARD CONTRACTS FOR SMALL POWER PRODUCERS

SECTION 1.(a) G.S. 62-3(27a) reads as rewritten:

"(27a) "Small power producer" means a person or corporation owning or operating an electrical power production facility ~~with a power production capacity which, together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which depends upon renewable resources for its primary source of energy. For the purposes of this section, renewable resources shall mean: hydroelectric power. A small power producer shall not include persons primarily engaged in the generation or sale of electricity from other than small power production facilities.~~ that qualifies as a "small power production facility" under 16 U.S.C. § 796, as amended."

SECTION 1.(b) G.S. 62-156 reads as rewritten:

"§ 62-156. Power sales by small power producers to public utilities.

(a) In the event that a small power producer and an electric public utility are unable to mutually agree to a contract for the sale of electricity or to a price for the electricity purchased by the electric public utility, the ~~commission~~ Commission shall require the electric public utility to purchase the power, under rates and terms established as provided in ~~subsection (b) of this section~~ subsection (b) or (c) of this section.

(b) ~~No later than March 1, 1981, and at~~ At least every two years thereafter, ~~years,~~ the ~~commission~~ Commission shall determine the standard contract avoided cost rates to be included within the tariffs of each electric public utility and paid by electric public utilities for power purchased from small power producers, according to the following standards:

- (1) ~~Term of Contract.~~ Standard Contract for Small Power Producers up to 1,000 kilowatts (kW). – The Commission shall approve a standard offer power purchase agreement to be used by the electric public utility in purchasing energy and capacity from small power producers subject to this subsection. Long-term contracts up to 10 years for the purchase of electricity by the electric public utility from small power producers with a design capacity up to and including 1,000 kilowatts (kW) shall be encouraged in order to enhance the economic feasibility of these small power production facilities; provided, however, that when an electric public utility, pursuant to this subsection, has entered into power purchase agreements with small power producers from facilities (i) in the aggregate capacity of 100 megawatts (MW) or more and (ii) which established a legally enforceable



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obligation after November 15, 2016, the eligibility threshold for that utility's standard offer shall be reduced to 100 kilowatts (kW).

- (2) Avoided Cost of Energy to the Utility. – The rates paid by ~~a~~an electric public utility to a small power producer for energy shall not exceed, over the term of the purchase power contract, the incremental cost to the electric public utility of the electric energy which, but for the purchase from a small power producer, the utility would generate or purchase from another source. A determination of the avoided energy costs to the utility shall include a consideration of the following factors over the term of the power contracts: the expected costs of the additional or existing generating capacity which could be displaced, the expected cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source, and the expected security of the supply of fuel for the utilities' alternative power sources.
- (3) Availability and Reliability of Power. – The rates to be paid by electric public utilities for ~~power~~capacity purchased from a small power producer shall be established with consideration of the reliability and availability of the power. A future capacity need shall only be avoided in a year where the utility's most recent biennial integrated resource plan filed with the Commission pursuant to G.S. 62-110.1(c) has identified a projected capacity need to serve system load and the identified need can be met by the type of small power producer resource based upon its availability and reliability of power, other than swine or poultry waste for which a need is established consistent with G.S. 62-133.8(e) and (f).

(c) Rates to be paid by electric public utilities to small power producers not eligible for the utility's standard contract pursuant to subsection (b) of this section shall be established through good-faith negotiations between the utility and small power producer, subject to the Commission's oversight as required by law. In establishing rates for purchases from such small power producers, the utility shall design rates consistent with the most recent Commission-approved avoided cost methodology for a fixed five-year term. Rates for such purchases shall take into account factors related to the individual characteristics of the small power producer, as well as the factors identified in subdivisions (2) and (3) of subsection (b) of this section. Notwithstanding this subsection, small power producers that produce electric energy primarily by the use of any of the following renewable energy resources may negotiate for a fixed-term contract that exceeds five years: (i) swine or poultry waste; (ii) hydropower, if the hydroelectric power facility total capacity is equal to or less than five megawatts (MW); or (iii) landfill gas, manure digester gas, agricultural waste digester gas, sewage digester gas, or sewer sludge digester gas.

(d) Notwithstanding any other provision of this section, an electric public utility shall not be required to enter into a contract with or purchase power from a small power producer if the electric public utility's obligation to purchase from such small power producers has been terminated pursuant to 18 C.F.R. § 292.309."

SECTION 1.(c) A small power production facility which would otherwise be eligible for the standard offer rate schedules and power purchase agreement terms and conditions approved by the Commission in Docket No. E-100, Sub 140, but which fails to commence delivering power to the utility on or before September 10, 2018, shall, notwithstanding such failure, remain eligible for such rate schedules and terms and conditions, unless the nameplate capacity of the generation facility when taken together with the nameplate capacity of other generation facilities connected to the same substation transformer exceeds the nameplate capacity of the substation transformer. The term of a power purchase agreement eligible for such rate schedules and terms and conditions pursuant to this section shall

commence on September 10, 2018, and shall end on the date that is 15 years after the commencement date. An electric public utility shall have the option in its discretion of electing not to interconnect to its distribution system a solar photovoltaic facility with a nameplate capacity of 10 megawatts (MW) or greater that had not executed an interconnection agreement prior to July 1, 2017, and instead requiring such facility to interconnect to the utility's transmission system.

SECTION 1.(d) This section is effective when it becomes law. Subsection (b) of this section applies to any standard contract rates and terms approved by the Commission or nonstandard negotiated agreements entered into between a small power producer and the electric public utility on or after that date. Subsection (c) of this section applies to small power production facilities that established a legally enforceable obligation in accordance with the Commission's then applicable requirements on or before November 15, 2016.

PART II. COMPETITIVE PROCUREMENT OF RENEWABLE ENERGY

SECTION 2.(a) Article 6 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-110.8. Competitive procurement of renewable energy.

(a) Each electric public utility shall file for Commission approval a program for the competitive procurement of energy and capacity from renewable energy facilities with the purpose of adding renewable energy to the State's generation portfolio in a manner that allows the State's electric public utilities to continue to reliably and cost-effectively serve customers' future energy needs. Renewable energy facilities eligible to participate in the competitive procurement shall include those facilities that use renewable energy resources identified in G.S. 62-133.8(a)(8) but shall be limited to facilities with a nameplate capacity rating of 80 megawatts (MW) or less that are placed in service after the date of the electric public utility's initial competitive procurement. Subject to the limitations set forth in subsections (b) and (c) of this section, the electric public utilities shall issue requests for proposals to procure and shall procure, energy and capacity from renewable energy facilities in the aggregate amount of 2,660 megawatts (MW), and the total amount shall be reasonably allocated over a term of 45 months beginning when the Commission approves the program. The Commission shall require the additional competitive procurement of renewable energy capacity by the electric public utilities in an amount that includes all of the following: (i) any unawarded portion of the initial competitive procurement required by this subsection; (ii) any deficit in renewable energy capacity identified pursuant to subdivision (1) of subsection (b) of this section; and (iii) any capacity reallocated pursuant to G.S. 62-159.2. In addition, at the termination of the initial competitive procurement period of 45 months, the offering of a new renewable energy resources competitive procurement and the amount to be procured shall be determined by the Commission, based on a showing of need evidenced by the electric public utility's most recent biennial integrated resource plan or annual update approved by the Commission pursuant to G.S. 62-110.1(c).

(b) Electric public utilities may jointly or individually implement the aggregate competitive procurement requirements set forth in subsection (a) of this section and may satisfy such requirements for the procurement of renewable energy capacity to be supplied by renewable energy facilities through any of the following: (i) renewable energy facilities to be acquired from third parties and subsequently owned and operated by the soliciting public utility or utilities; (ii) renewable energy facilities to be constructed, owned, and operated by the soliciting public utility or utilities subject to the limitations of subdivision (4) of this subsection; or (iii) the purchase of renewable energy, capacity, and environmental and renewable attributes from renewable energy facilities owned and operated by third parties that commit to allow the procuring public utility rights to dispatch, operate, and control the solicited renewable energy facilities in the same manner as the utility's own generating resources.

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Procured renewable energy capacity, as provided for in this section, shall be subject to the following limitations:

- (1) If prior to the end of the initial 45-month competitive procurement period the public utilities subject to this section have executed power purchase agreements and interconnection agreements for renewable energy capacity within their balancing authority areas that are not subject to economic dispatch or curtailment and were not procured pursuant to G.S. 62-159.2 having an aggregate capacity in excess of 3,500 megawatts (MW), the Commission shall reduce the competitive procurement aggregate amount by the amount of such exceedance. If the aggregate capacity of such renewable energy facilities is less than 3,500 megawatts (MW) at the end of the initial 45-month competitive procurement period, the Commission shall require the electric public utilities to conduct an additional competitive procurement in the amount of such deficit.
- (2) To ensure the cost-effectiveness of procured new renewable energy resources, each public utility's procurement obligation shall be capped by the public utility's current forecast of its avoided cost calculated over the term of the power purchase agreement. The public utility's current forecast of its avoided cost shall be consistent with the Commission-approved avoided cost methodology.
- (3) Each public utility shall submit to the Commission for approval and make publicly available at 30 days prior to each competitive procurement solicitation a pro forma contract to be utilized for the purpose of informing market participants of terms and conditions of the competitive procurement. Each pro forma contract shall define limits and compensation for resource dispatch and curtailments. The pro forma contract shall be for a term of 20 years; provided, however, the Commission may approve a contract term of a different duration if the Commission determines that it is in the public interest to do so.
- (4) No more than thirty percent (30%) of an electric public utility's competitive procurement requirement may be satisfied through the utility's own development of renewable energy facilities offered by the electric public utility or any subsidiary of the electric public utility that is located within the electric public utility's service territory. This limitation shall not apply to any renewable energy facilities acquired by an electric public utility that are selected through the competitive procurement and are located within the electric public utility's service territory.

(c) Subject to the aggregate competitive procurement requirements established by this section, the electric public utilities shall have the authority to determine the location and allocated amount of the competitive procurement within their respective balancing authority areas, whether located inside or outside the geographic boundaries of the State, taking into consideration (i) the State's desire to foster diversification of siting of renewable energy resources throughout the State; (ii) the efficiency and reliability impacts of siting of additional renewable energy facilities in each public utility's service territory; and (iii) the potential for increased delivered cost to a public utility's customers as a result of siting additional renewable energy facilities in a public utility's service territory, including additional costs of ancillary services that may be imposed due to the operational or locational characteristics of a specific renewable energy resource technology, such as nondispatchability, unreliability of availability, and creation or exacerbation of system congestion that may increase redispatch costs.

(d) The competitive procurement of renewable energy capacity established pursuant to this section shall be independently administered by a third-party entity to be approved by the

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Commission. The third-party entity shall develop and publish the methodology used to evaluate responses received pursuant to a competitive procurement solicitation and to ensure that all responses are treated equitably. All reasonable and prudent administrative and related expenses incurred to implement this subsection shall be recovered from market participants through administrative fees levied upon those that participate in the competitive bidding process, as approved by the Commission.

(e) An electric public utility may participate in any competitive procurement process, but shall only participate within its own assigned service territory. If the public utility uses nonpublicly available information concerning its own distribution or transmission system in preparing a proposal to a competitive procurement, the public utility shall make such information available to third parties that have notified the public utility of their intention to submit a proposal to the same request for proposals.

(f) For purposes of this section, the term "balancing authority" means the entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time, and the term "balancing authority area" means the collection of generation, transmission, and loads within the metered boundaries of the balancing authority, and the balancing authority maintains load-resource balance within this area.

(g) An electric public utility shall be authorized to recover the costs of all purchases of energy, capacity, and environmental and renewable attributes from third-party renewable energy facilities and to recover the authorized revenue of any utility-owned assets that are procured pursuant to this section through an annual rider approved by the Commission and reviewed annually. Provided it is in the public interest, the authorized revenue for any renewable energy facilities owned by an electric public utility may be calculated on a market basis in lieu of cost-of-service based recovery, using data from the applicable competitive procurement to determine the market price in accordance with the methodology established by the Commission pursuant to subsection (h) of this section. The annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this subsection shall not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year.

(h) The Commission shall adopt rules to implement the requirements of this section, as follows:

- (1) Oversight of the competitive procurement program.
- (2) To provide for a waiver of regulatory conditions or code of conduct requirements that would unreasonably restrict a public utility or its affiliates from participating in the competitive procurement process, unless the Commission finds that such a waiver would not hold the public utility's customers harmless.
- (3) Establishment of a procedure for expedited review and approval of certificates of public convenience and necessity, or the transfer thereof, for renewable energy facilities owned by the public utility and procured pursuant to this section. The Commission shall issue an order not later than 30 days after a petition for a certificate is filed by the public utility.
- (4) Establishment of a methodology to allow an electric public utility to recover its costs pursuant to subsection (g) of this section.
- (5) Establishment of a procedure for the Commission to modify or delay implementation of the provisions of this section in whole or in part if the Commission determines that it is in the public interest to do so.

(i) The requirements of this section shall not apply to an electric public utility serving fewer than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017."

SECTION 2.(b) G.S. 62-153(b) reads as rewritten:

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"(b) No public utility shall pay any fees, commissions or compensation of any description whatsoever to any affiliated or subsidiary holding, managing, operating, constructing, engineering, financing or purchasing company or agency for services rendered or to be rendered without first filing copies of all proposed agreements and contracts with the Commission and obtaining its approval. Provided, however, that this subsection shall not apply to (i) motor carriers of ~~passengers~~ passengers or (ii) power purchase agreements entered into pursuant to the competitive renewable energy procurement process established pursuant to G.S. 62-110.8."

SECTION 2.(c) This section is effective when it becomes law. The program required to be filed with the Utilities Commission pursuant to G.S. 62-110.8(a), as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 120 days after the effective date of this section, and the Commission shall issue an order to approve, modify, or deny the program no later than 90 days after the submission of the program by the electric public utility.

PART III. RENEWABLE ENERGY PROCUREMENT FOR MAJOR MILITARY INSTALLATIONS, PUBLIC UNIVERSITIES, AND OTHER LARGE CUSTOMERS

SECTION 3.(a) Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-159.2. Direct renewable energy procurement for major military installations, public universities, and large customers.

(a) Each electric public utility providing retail electric service to more than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017, shall file with the Commission an application requesting approval of a new program applicable to major military installations, as that term is defined in G.S. 143-215.115(1), The University of North Carolina, as established in Article 1 of Chapter 116 of the General Statutes, and other new and existing nonresidential customers with either a contract demand (i) equal to or greater than one megawatt (MW) or (ii) at multiple service locations that, in aggregate, is equal to or greater than five megawatts (MW).

(b) Each public utility's program application required by this section shall provide standard contract terms and conditions for participating customers and for renewable energy suppliers from which the electric public utility procures energy and capacity on behalf of the participating customer. The application shall allow eligible customers to select the new renewable energy facility from which the electric public utility shall procure energy and capacity. The standard terms and conditions available to renewable energy suppliers shall provide a range of terms, between two years and 20 years, from which the participating customer may elect. Eligible customers shall be allowed to negotiate with renewable energy suppliers regarding price terms.

(c) Each contracted amount of capacity shall be limited to no more than one hundred twenty-five percent (125%) of the maximum annual peak demand of the eligible customer premises. Each public utility shall establish reasonable credit requirements for financial assurance for eligible customers that are consistent with the Uniform Commercial Code of North Carolina. Major military installations and The University of North Carolina are exempt from the financial assurance requirements of this section.

(d) The program shall be offered by the electric public utilities subject to this section for a period of five years or until December 31, 2022, whichever is later, and shall not exceed a combined 600 megawatts (MW) of total capacity. For the public utilities subject to this section, where a major military installation is located within its Commission-assigned service territory, at least 100 megawatts (MW) of new renewable energy facility capacity offered under the program shall be reserved for participation by major military installations. At least 250 megawatts (MW) of new renewable energy facility capacity offered under the programs shall

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also be reserved for participation by The University of North Carolina. Major military installations and The University of North Carolina must fully subscribe to all their allocations prior to December 31, 2020, or a period of no more than three years after approval of the program, whichever is later. If any portion of total capacity set aside to major military installations or The University of North Carolina is not used, it shall be reallocated for use by any eligible program participant. If any portion of the 600 megawatts (MW) of renewable energy capacity provided for in this section is not awarded prior to the expiration of the program, it shall be reallocated to and included in a competitive procurement in accordance with G.S. 62-110.8(a).

(e) In addition to the participating customer's normal retail bill, the total cost of any renewable energy and capacity procured by or provided by the electric public utility for the benefit of the program customer shall be paid by that customer. The electric public utility shall pay the owner of the renewable energy facility which provided the electricity. The program customer shall receive a bill credit for the energy as determined by the Commission; provided, however, that the bill credit shall not exceed utility's avoided cost. The Commission shall ensure that all other customers are held neutral, neither advantaged nor disadvantaged, from the impact of the renewable electricity procured on behalf of the program customer."

SECTION 3.(b) This section is effective when it becomes law. The application required to be filed with the Utilities Commission pursuant to G.S. 62-159.2, as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 180 days after the effective date of this section.

PART IV. COST-RECOVERY FOR CERTAIN SMALL POWER PRODUCER PURCHASES

SECTION 4.(a) G.S. 62-133.2 reads as rewritten:

"§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.

(a) The Commission shall permit an electric public utility that generates electric power by fossil fuel or nuclear fuel to charge an increment or decrement as a rider to its rates for changes in the cost of fuel and fuel-related costs used in providing its North Carolina customers with electricity from the cost of fuel and fuel-related costs established in the electric public utility's previous general rate case on the basis of cost per kilowatt hour.

(a1) As used in this section, "cost of fuel and fuel-related costs" means all of the following:

- (1) The cost of fuel burned.
- (2) The cost of fuel transportation.
- (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
- (4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility, that are subject to economic dispatch or economic curtailment.
- (5) The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are subject to economic dispatch by the electric public utility.
- (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to G.S. 62-133.8 or to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8.
- (7) The fuel cost component of other purchased power.

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- (8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components.
- (9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.
- (10) The total delivered costs, including capacity and noncapacity costs, associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are not subject to economic dispatch or economic curtailment by the electric public utility and not otherwise recovered under subdivision (6) of this subsection.
- (11) All nonadministrative costs related to the renewable energy procurement pursuant to G.S. 62-159.2 not recovered from the program participants.

(a2) For those costs identified in subdivisions (4), (5), ~~and (6)~~, (10), and (11) of subsection (a1) of this section, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this section shall not exceed ~~two percent (2%)~~ two and one-half percent (2.5%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. The costs described in subdivisions (4), (5), ~~and (6)~~, (10), and (11) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider as follows:

- (1) For the noncapacity costs described in ~~subdivision (4)~~ subdivisions (4), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the ~~electric public utility's North Carolina energy usage for the prior year~~ method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, ~~2008~~ 2017.
- (2) For the capacity costs described in subdivisions ~~(5) and (6)~~ (5), (6), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the ~~electric public utility's North Carolina peak demand for the prior year~~ method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, ~~2008~~ 2017.

...."

SECTION 4.(b) This section is effective when it becomes law.

PART V. AMEND COST CAPS FOR REPS COMPLIANCE

SECTION 5.1.(a) G.S. 62-133.8(h)(4) reads as rewritten:

- "(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

2015 and

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Customer Class	2008-2011	2012-2014	thereafter
Residential per account	\$10.00	\$12.00	\$34.00 \$27.00
Commercial per account	\$50.00	\$150.00	\$150.00
Industrial per account	\$500.00	\$1,000.00	\$1,000.00"

SECTION 5.1.(b) This section becomes effective July 1, 2017, and applies to cost-recovery proceedings initiated on or after that date.

COST-RECOVERY HOLD HARMLESS

SECTION 5.2. All reasonable and prudent incremental costs incurred by an electric power supplier prior to July 1, 2017, to comply with any requirement repealed or amended by this act may be recovered as provided in G.S. 62-133.8(h), as amended by this act. For the purposes of cost-recovery under this act, reasonable and prudent incremental costs shall include all of the following:

- (1) Costs under purchase contracts for renewable energy entered into prior to July 1, 2017, for the purpose of complying with the renewable energy portfolio standards requirements amended by this act.
- (2) The costs of renewable energy facilities built or acquired by a public utility for which a certificate of public convenience and necessity has been issued by the Commission prior to July 1, 2017.

PART VI. DISTRIBUTED RESOURCES ACCESS ACT

SECTION 6.(a) Chapter 62 of the General Statutes is amended by adding a new Article to read:

"Article 6B."Distributed Resources Access Act."§ 62-126.1. Title.

This Article may be cited as the "Distributed Resources Access Act."

"§ 62-126.2. Declaration of policy.

The General Assembly of North Carolina finds that as a matter of public policy it is in the interest of the State to encourage the leasing of solar energy facilities for retail customers and subscription to shared community solar energy facilities. The General Assembly further finds and declares that in encouraging the leasing of and subscription to solar energy facilities pursuant to this act, cross-subsidization should be avoided by holding harmless electric public utilities' customers that do not participate in such arrangements.

"§ 62-126.3. Definitions.

For purposes of this Article, the following definitions apply:

- (1) Affiliate. – Any entity directly or indirectly controlling or controlled by or under direct or indirect common control with an electric power supplier.
- (2) Commission. – The North Carolina Utilities Commission.
- (3) Community solar energy facility. – A solar energy facility whose output is shared through subscriptions.
- (4) Customer generator lessee. – A lessee of a solar energy facility.
- (5) Electric generator lessor. – The owner of solar energy facility that leases the facility to a customer generator lessee, including any agents who act on behalf of the electric generator lessor. For purposes of this Article, an electric generator lessor shall not be considered a public utility under G.S. 62-3(23).
- (6) Electric power supplier. – A public utility, an electric membership corporation, or a municipality that sells electric power to retail electric customers in the State.

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- (7) Electric public utility. – A public utility as defined by G.S. 62-3(23) that sells electric power to retail electric customers in the State.
- (8) Maximum annual peak demand. – The maximum single hour of electric demand actually occurring or estimated to occur at a premises.
- (9) Net metering. – To use electrical metering equipment to measure the difference between the electrical energy supplied to a retail electric customer by an electric power supplier and the electrical energy supplied by the retail electric customer to the electric power supplier over the applicable billing period.
- (10) Offering utility. – Any electric public utility as defined in G.S. 62-3(23) serving at least 150,000 North Carolina retail jurisdictional customers as of January 1, 2017. The term shall not include any other electric public utility, electric membership corporation, or municipal electric supplier authorized to provide retail electric service within the State. An offering utility's participation in this Article as an electric generator lessor shall not otherwise alter its status as a public utility with respect to any other provision of this Chapter. An offering utility's participation in this Article shall be regulated pursuant to the provisions of this Article.
- (11) Person. – The same meaning as provided by G.S. 62-3(21).
- (12) Premises. – The building, structure, farm, or facility to which electricity is being or is to be furnished. Two or more buildings, structures, farms, or facilities that are located on one tract or contiguous tracts of land and that are utilized by one electric customer for commercial, industrial, institutional, or governmental purposes shall constitute one "premises," unless the electric service to the building, structures, farms, or facilities are separately metered and charged.
- (13) Property. – The tract of land on which the premises is located, together with all the adjacent contiguous tracts of land utilized by the same retail electric customer.
- (14) Solar energy facility. – A electric generating facility leased to a customer generator lessee that meets the following requirements:
 - a. Generates electricity from a solar photovoltaic system and related equipment that uses solar energy to generate electricity.
 - b. Is limited to a capacity of (i) not more than the lesser of 1,000 kilowatts (kW) or one hundred percent (100%) of contract demand if a nonresidential customer or (ii) not more than 20 kilowatts (kW) or one hundred percent (100%) of estimated electrical demand if a residential customer.
 - c. Is located on a premises owned, operated, leased, or otherwise controlled by the customer generator lessee that is also the premises served by the solar energy facility.
 - d. Is interconnected and operates in parallel phase and synchronization with an offering utility authorized by the Commission to provide retail electric service to the premises and has been approved for interconnection and parallel operation by that public utility.
 - e. Is intended only to offset no more than one hundred percent (100%) of the customer generator lessee's own retail electrical energy consumption at the premises.
 - f. Meets all applicable safety, performance, interconnection, and reliability standards established by the Commission, the public utility, the National Electrical Code, the National Electrical Safety

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Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities.

- (15) Subscription. – A contract between a subscriber and the owner of a community solar energy facility that allows a subscriber to receive a bill credit for the electricity generated by a community solar energy facility in proportion to the electricity generated.

"§ 62-126.4. Commission to establish net metering rates.

(a) Each electric public utility shall file for Commission approval revised net metering rates for electric customers that (i) own a renewable energy facility for that person's own primary use or (ii) are customer generator lessees.

(b) The rates shall be nondiscriminatory and established only after an investigation of the costs and benefits of customer-sited generation. The Commission shall establish net metering rates under all tariff designs that ensure that the net metering retail customer pays its full fixed cost of service. Such rates may include fixed monthly energy and demand charges.

(c) Until the rates have been approved by the Commission as required by this section, the rate shall be the applicable net metering rate in place at the time the facility interconnects. Retail customers that own and install an on-site renewable energy facility and interconnect to the grid prior to the date the Commission approves new metering rates may elect to continue net metering under the net metering rate in effect at the time of interconnection until January 1, 2027.

"§ 62-126.5. Scope of leasing program in offering utilities' service areas.

(a) An offering utility and its affiliates may be deemed to be electric generator lessors and may offer leases to solar energy facilities only within the offering utility's own assigned service area or, in the case of an affiliate, the service area assigned to an affiliated offering utility. The costs an offering public utility incurs in marketing, installing, owning, or maintaining leases through its own leasing programs as a lessor shall not be recovered from other nonparticipating utility customers through rates, and the Commission shall not have any jurisdiction over the financial terms of such leases. An offering utility, and the customer generator lessees that lease facilities from it, may participate on an equal basis with other lessors and lessees and in any approved incentive program offered by the utility to its customers.

(b) An electric generator lessor that owns a solar energy facility within the assigned service area of an offering utility and that is located on a premises owned or leased by a customer generator lessee shall be permitted to lease such facility exclusively to a customer generator lessee under a lease, provided that the electric generator lessor complies with the terms, conditions, and restrictions set forth within this section and holds a valid certificate issued by the Commission pursuant to G.S. 62-126.7. An electric generator lessor shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy facility is only made available to a customer generator lessee under a lease that conforms to the requirements of G.S. 62-126.6 for the customer generator lessee's use on its premises where the solar energy facility is located to serve the electric energy requirements of that particular premises, including to enable the customer generator lessee to obtain a credit for the electricity generated under an applicable net metering tariff or to engage in the sale of excess energy from the solar energy facility to an offering utility.

(c) Any lease of a solar energy facility not entered into pursuant to this section is prohibited and any electric generator lessor that enters into a lease outside of an offering utility's program implemented pursuant to this section or otherwise enters into a contract or agreement where payments are based upon the electric output of a solar energy facility shall be considered a "public utility" under G.S. 62-3(23) and be in violation of the franchised service rights of the offering utility or any other electric power supplier authorized to provide retail

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electric service in the State. This section does not authorize the sale of electricity from solar energy facilities directly to any customer of an offering utility or other electric power supplier by the owner of a solar energy facility. The electrical output from any solar energy facility leased pursuant to this program shall be the sole and exclusive property of the customer generator lessee.

(d) The total installed capacity of all solar energy facilities on an offering utility's system that are leased pursuant to this section shall not exceed one percent (1%) of the previous five-year average of the North Carolina retail contribution to the offering utility's coincident retail peak demand. The offering utility may refuse to interconnect customers that would result in this limitation being exceeded. Each offering utility shall establish a program for new installations of leased equipment to permit the reservation of capacity by customer generator lessees, whether participating in a public utility or nonutility lessor's leasing program, on its system, including provisions to prevent or discourage abuse of such programs. Such programs must provide that only prospective individual customer generator lessees may apply for, receive, and hold reservations to participate in the offering utility's leasing program. Each reservation shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned except as part of the sale of the underlying premises.

(e) To comply with the terms of this section, each customer generator lessor's solar energy facility shall serve only one premises and shall not serve multiple customer generator lessees or multiple premises. The customer generator lessee must enroll in the applicable rate schedule made available by the interconnecting offering utility, subject to the participation limitations set forth in subsection (a) of this section.

"§ 62-126.6. Electric customer generator leasing requirements; disclosures; records.

(a) A lease agreement offered by an electric generator lessor must meet the following requirements:

- (1) Be signed and dated by the retail electric customer. Any agreement that contains blank spaces when signed by the retail electric customer is voidable at the option of the retail electric customer until the solar energy facility is installed.
- (2) Be in at least 12-point type.
- (3) Include a provision granting the retail electric customer the right to rescind the agreement for a period of not less than three business days after the agreement is signed by the retail electric customer.
- (4) Provide a description of the solar energy facility, including the make and model of the solar energy facility's major components, and a guarantee concerning energy production output that the solar energy facility will provide over the expected life of the agreement.
- (5) Separately set forth the following items, as applicable:
 - a. The total cost to the retail electric customer under the lease agreement for the solar energy facility over the life of the agreement.
 - b. Any interest, installation fees, document preparation fees, service fees, or other costs to be paid by the retail electric customer.
 - c. The total number of payments, including the interest, the payment frequency, the estimated amount of the payment expressed in dollars, and the payment due date over the leased term.
- (6) Identify any State or federal tax incentives that are included in the calculation of lease payments.
- (7) Disclose whether the warranty or maintenance obligations related to the solar energy facility may be sold or transferred to a third party.
- (8) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer, if a transfer of the lease agreement is subject

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- to any restrictions pursuant to the agreement on the retail electric customer's ability to modify or transfer ownership of a solar energy facility, including whether any modification or transfer is subject to review or approval by a third party. If the modification or transfer of the solar energy facility is subject to review or approval by a third party, the agreement must identify the name, address, and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer.
- (9) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer, if a modification or transfer of ownership of the real property to which the solar energy facility is or will be affixed is subject to any restrictions pursuant to the agreement on the retail electric customer's ability to modify or transfer ownership of the real property to which the solar energy facility is installed or affixed, including whether any modification or transfer is subject to review or approval by a third party. If the modification or transfer of the real property to which the solar energy facility is affixed or installed is subject to review or approval by a third party, the agreement must identify the name, address, and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer.
 - (10) Provide a full and accurate summary of the total costs under the agreement for maintaining and operating the solar energy facility over the life of the solar energy facility, including financing, maintenance, and construction costs related to the solar energy facility.
 - (11) If the agreement contains an estimate of the retail electric customer's future utility charges based on projected utility rates after the installation of a solar energy facility, provide an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%) annual increase from current utility costs. The comparative estimates must be calculated based on the same utility rates.
 - (12) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer that states: "Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted and projected savings from your solar energy facility are therefore subject to change. Tax incentives are subject to change or termination by executive, legislative, or regulatory action."

(b) Before the maintenance or warranty obligations of a solar energy facility under an existing lease agreement are transferred, the person who is currently obligated to maintain or warrant the solar energy facility must disclose the name, address, and telephone number of the person who will be assuming the maintenance or warranty of the solar energy facility.

(c) If the electric generator lessor's marketing materials contain an estimate of the retail electric customer's future utility charges based on projected utility rates after the installation of a solar energy facility, the marketing materials must contain an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%) annual increase from current utility costs.

"§ 62-126.7. Commission authority over electric generator lessors.

(a) No person shall engage in the leasing of a solar energy facility without having applied for and obtained a certificate authorizing those operations from the Commission. The application for a certificate of authority to engage in business as an electric generator lessor

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shall be made in a form prescribed by the Commission and accompanied by the fee required pursuant to G.S. 62-300(a)(16).

(b) In acting upon the application for a certificate of authority to engage in business as an electric generator lessor, the Commission shall take into account the State's interest in encouraging the leasing of solar electric generation facilities and avoidance of cross-subsidization as declared by the policy objectives of this Article as provided in G.S. 62-126.2, as well as the policy of the State, as provided in G.S. 62-2(a). The Commission shall issue a certificate of authority to engage in business as an electric generator lessor if the Commission finds that the applicant is fit, willing, and able to conduct that business in accordance with the provisions of this Article. The certificate shall be effective from the date issued unless otherwise specified therein and shall remain in effect until terminated under the terms thereof, or until suspended or revoked as herein provided.

(c) As a condition for issuance and continuation of a certificate of authority for an electric generator lessor, the applicant shall certify to the Commission all of the following:

- (1) The applicant will register with the Commission each solar energy facility that the applicant leases to a customer generator lessee.
- (2) That each lease of a solar energy facility that the applicant offers or accepts will comply with the provisions of this Article.
- (3) The applicant will consent to the auditing of its books and records by the Public Staff insofar as those records relate to transactions with an offering utility or a customer generator lessee that is located in the State.
- (4) That the applicant will conduct its business in substantial compliance with all federal and State laws, regulations, and rules for the protection of the environment and conservation of natural resources, the provision of electric service, and the protection of consumers.

(d) Upon the request of an electric public utility, an electric membership corporation, the Public Staff, a customer generator lessee, or person having an interest in the electric generator lessor's conduct of its business, the Commission may review the certificate to determine whether the electric generator lessor is conducting business in compliance with this Article. After notice to the electric generator lessor, the Commission may suspend the certificate and enter upon a hearing to determine whether the certificate should be revoked. After the hearing, and for good cause shown, the Commission may, in its discretion, reinstate a suspended certificate, continue a suspension of a certificate, or revoke a certificate.

(e) It shall be a violation of law punishable by a civil penalty of not more than ten thousand dollars (\$10,000) per occurrence for any person to either directly or indirectly do any of the following:

- (1) Solicit business as a lessor of solar energy facilities without a valid certificate issued under this section or otherwise in violation of the terms of this Article.
- (2) Engage in any unfair or deceptive practice in the leasing of solar energy facilities or otherwise violate the requirements of G.S. 62-126.6.
- (3) Operate in violation of the terms of the certificate issued by this Article.

"§ 62-126.8. Community solar energy facilities.

(a) Each offering utility shall file a plan with the Commission to offer a community solar energy facility program for participation by its retail customers. The community solar energy facility program shall be designed so that each community solar energy facility offsets the energy use of not less than five subscribers and no single subscriber has more than a forty percent (40%) interest. The offering utility shall make its community solar energy facility program available on a first-come, first-served basis until the total nameplate generating capacity of those facilities equals 20 megawatts (MW).

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(b) A community solar energy facility shall have a nameplate capacity of no more than five megawatts (MW). Each subscription shall be sized to represent at least 200 watts (W) of the community solar energy facility's generating capacity and to supply no more than one hundred percent (100%) of the maximum annual peak demand of electricity of each subscriber at the subscriber's premises.

(c) A community solar energy facility must be located in the service territory of the offering utility filing the plan. Subscribers shall be located in the State of North Carolina and the same county or a county contiguous to where the facility is located. The electric public utility may file a request for Commission approval for an exemption from the location requirement of this subsection and the Commission may approve the request for a facility located up to 75 miles from the county of the subscribers, if the Commission deems the exemption to be in the public interest.

(d) The offering utility shall credit the subscribers to its community solar energy facility for all subscribed shares of energy generated by the facility at the avoided cost rate.

(e) The Commission may approve, disapprove, or modify a community solar energy facility program. The program shall meet all of the following requirements:

- (1) Establish uniform standards and processes for the community solar energy facilities that allow the electric public utility to recover reasonable interconnection costs, administrative costs, fixed costs, and variable costs associated with each community solar energy facility, including purchase expenses if a power purchase agreement is elected as the method of energy procurement by the offering utility.
- (2) Be consistent with the public interest.
- (3) Identify the information that must be provided to potential subscribers to ensure fair disclosure of future costs and benefits of subscriptions.
- (4) Include a program implementation schedule.
- (5) Identify all proposed rules and charges.
- (6) Describe how the program will be promoted.
- (7) Hold harmless customers of the electric public utility who do not subscribe to a community solar energy facility.
- (8) Allow subscribers to have the option to own the renewable energy certificates produced by the community solar energy facility.

"§ 62-126.9. Scope of leasing program by municipalities.

(a) A municipality that sells electric power to retail customers in the State may elect, by action of its governing council or commission, to be deemed to be an electric generator lessor and may offer leases to solar energy facilities located within the municipality's service territory. The costs a municipality incurs in marketing, installing, owning, or maintaining leases through its own leasing programs as a lessor shall not be recovered from other nonparticipating municipality retail customers through rates.

(b) Provided the municipality has elected to offer a leasing program, an electric generator lessor that owns a solar energy facility within a municipality's service territory and that is located on a premises owned or leased by a customer generator lessee shall be permitted to lease such facility exclusively to a customer generator lessee pursuant to a lease under terms and conditions approved by the municipality and holds a valid certificate issued by the Commission pursuant to G.S. 62-126.7. Notwithstanding this subsection, a municipality acting as an electric generator lessor shall not be required to comply with G.S. 62-126.7.

(c) An electric generator lessor, including a municipality acting as an electric generator lessor, shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy facilities are only made available to a customer generator lessee under a lease that conforms to the requirements of G.S. 62-126.6 for the customer generator lessee's use of the customer generator lessee's premises where the solar energy facility is located to serve the electric energy

requirements of that particular premises, including to enable the customer generator lessee to obtain a credit under an applicable net metering tariff or to engage in the sale of excess energy from the solar energy facility to the municipality; provided, however, that the provisions of G.S. 62-126.4 shall not apply to a municipality or other electric generator lessor that offers leases to solar energy facilities located within the municipality's service territory pursuant to this section. Any net metering tariffs adopted by such municipality shall be adopted by its governing council or commission in accordance with the rate-setting procedures set forth in Article 16 of Chapter 160A of the General Statutes.

(d) Any lease of a solar energy facility in a municipal electric service area not entered into pursuant to this section is prohibited. This section does not authorize the sale of electricity from solar energy facilities directly to any customer of a municipality by the owner of a solar energy facility. The electrical output from any eligible renewable electric generation facility leased pursuant to this section shall be the sole and exclusive property of the customer generator lessee.

(e) Each eligible solar energy facility shall serve only one premises and shall not serve multiple customer generator lessees or multiple premises. The customer generator lessee must enroll in the applicable rate schedule made available by the municipality, subject to the participation limitations set forth in subsection (a) of this section.

"§ 62-126.10. Rules.

The Commission shall adopt rules to implement the provisions of this Article."

SECTION 6.(b) G.S. 62-3(23) reads as rewritten:

"§ 62-3. Definitions.

As used in this Chapter, unless the context otherwise requires, the term:

- ...
- (23) a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:
1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is ~~for such either for (i) a person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; compensation or (ii) a person who constructs or operates an eligible solar energy facility on the site of a customer's property and leases such facility to that customer, as provided by and subject to the limitations of Article 6B of this Chapter;~~
-"

SECTION 6.(c) G.S. 62-110.1(g) reads as rewritten:

"(g) The certification requirements of this section shall not apply to (i) a nonutility-owned generating facility fueled by renewable energy resources under two megawatts in capacity or capacity; (ii) to persons who construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; provided, however, that such persons shall, nevertheless, be required to report to the Utilities Commission the proposed construction of such a facility before beginning construction thereof or (iii) a solar energy facility or a community solar energy facility, as provided by and subject to the limitations of Article 6B of this Chapter. However, such persons shall be required to report the proposed

construction of the facility and the completion of the facility to the Commission and the interconnecting public utility. Such reports shall be for informational purposes only and shall not require action by the Commission or the Public Staff."

SECTION 6.(d) This section is effective when it becomes law. The plan required to be filed with the Utilities Commission pursuant to G.S. 62-126.8(a), as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 180 days after the effective date of this section.

PART VII. EXPEDITED REVIEW OF INTERCONNECTION OF SWINE AND POULTRY WASTE

SECTION 7. G.S. 62-133.8(i)(4) reads as rewritten:

"(4) Establish standards for interconnection of renewable energy facilities and other nonutility-owned generation with a generation capacity of 10 megawatts or less to an electric public utility's distribution system; provided, however, that the Commission shall adopt, if appropriate, federal interconnection standards. The standards adopted pursuant to this subdivision shall include an expedited review process for swine and poultry waste to energy projects of two megawatts (MW) or less and other measures necessary and appropriate to achieve the objectives of subsections (e) and (f) of this section."

PART VIII. SOLAR REBATE PROGRAM

SECTION 8.(a) G.S. 62-155 is amended by adding a new subsection to read:

"(f) Each electric public utility serving more than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017, shall file with the Commission an application requesting approval of a program offering reasonable incentives to residential and nonresidential customers for the installation of small customer owned or leased solar energy facilities participating in a public utility's net metering tariff, where the incentive shall be limited to 10 kilowatts alternating current (kW AC) for residential solar installations and 100 kilowatts alternating current (kW AC) for nonresidential solar installations. Each public utility required to offer the incentive program pursuant to this subsection shall be authorized to recover all reasonable and prudent costs of incentives provided to customers and program administrative costs by amortizing the total program incentives distributed during a calendar year and administrative costs over a 20-year period, including a return component adjusted for income taxes at the utility's overall weighted average cost of capital established in its most recent general rate case, which shall be included in the costs recoverable by the public utility pursuant to G.S. 62-133.8(h). Nothing in this section shall prevent the reasonable and prudent costs of a utility's programs to incentivize customer investment in or leasing of solar energy facilities, including an approved incentive, from being reflected in a utility's rates to be recovered through the annual rider established pursuant to G.S. 62-133.8(h). The program incentive established by each public utility subject to this section shall meet all of the following requirements:

- (1) Shall be limited to 10,000 kilowatts (kW) of installed capacity annually starting in January 1, 2018, and continuing until December 31, 2022, and shall provide incentives to participating customers based upon the installed alternating current nameplate capacity of the generators.
- (2) Nonresidential installations will also be limited to 5,000 kilowatts (kW) in aggregate for each of the years of the program.
- (3) Two thousand five hundred kilowatts (kW) of the capacity for nonresidential installations shall be set aside for use by nonprofit organizations; 50 kilowatts (kW) of the set aside shall be allocated to the NC Greenpower

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Solar Schools Pilot or a similar program. Any set-aside rebates that are not used by December 31, 2022, shall be reallocated for use by any customer who otherwise qualifies. For purposes of this section, "nonprofit organization" means an organization or association recognized by the Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or any bona fide branch, chapter, or affiliate of that organization.

- (4) If in any year a portion of the incentives goes unsubscribed, the utility may roll excess incentives over into a subsequent year's allocation."

SECTION 8.(b) G.S. 62-133.8(h)(1) is amended by adding a new sub-subdivision to read:

"d. Provide incentives to customers, including program costs, incurred pursuant to G.S. 62-155(f)."

SECTION 8.(c) This section is effective when it becomes law. The application required to be filed with the Utilities Commission pursuant to G.S. 62-155(f), as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 180 days after the effective date of this section.

PART IX. DEMAND-SIDE MANAGEMENT FOR STATE-OWNED FACILITIES PILOT PROJECT

SECTION 9. Article 17 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-351. Demand-side management policy; pilot project.

(a) Declaration of Policy. – It is the policy of the State for government-owned facilities that have backup or emergency generators that meet the criteria of utility demand-side management programs or rates to enroll in such programs or rates to the extent those programs or rates are available without diminishing the purpose or use of the facility having the backup or emergency generator.

(b) Department of Public Safety Pilot Program. – By no later than January 1, 2018, the Department of Public Safety shall designate a backup or emergency generator to enroll in the demand-side management program or rate available that would allow electricity load to be shifted to its generator in response to utility-administered programs.

(c) Report. – The Department of Public Safety shall report to the Joint Legislative Commission on Energy Policy by January 31 of each year on the status of the designated backup or emergency generator and whether it is enrolled in the utility demand-side response program or rate.

(d) Sunset. – The pilot program and report required by subsections (b) and (c) of this section shall expire on January 1, 2020."

PART X. UPDATE UTILITIES COMMISSION CHARGES AND FEES

SECTION 10.(a) G.S. 62-133.8 is amended by adding a new subsection to read:

"(l) The owner, including an electric power supplier, of each renewable energy facility or new renewable energy facility, whether or not required to obtain a certificate of public convenience and necessity pursuant to G.S. 62-110.1, that intends for renewable energy certificates it earns to be eligible for use by an electric power supplier to comply with G.S. 62-133.8 shall register the facility with the Commission. Such an owner shall file a registration statement in the form prescribed by the Commission and remit to the Commission the fee required pursuant to G.S. 62-300(a)(16)."

SECTION 10.(b) G.S. 62-300(a) is amended by adding two new subdivisions to read:

"(16) Two hundred fifty dollars (\$250.00) with each application for a certificate of authority to engage in business as an electric generator lessor filed pursuant

- (17) to G.S. 62-126.7 or each registration statement for a renewable energy facility or new renewable energy facility filed pursuant to G.S. 62-133.8(l).
Fifty dollars (\$50.00) for each report of proposed construction filed by the owner of an electric generating facility that is exempt from the certification requirements of G.S. 62-110.1(a)."

PART XI. UTILITIES COMMISSION/PUBLIC STAFF POSITIONS

SECTION 11. If House Bill 589 of the 2017 Regular Session becomes law, then the North Carolina Utilities Commission and the Public Staff of the Utilities Commission are each authorized to create two positions funded from receipts of the Commission in order to meet requirements imposed by that act.

PART XII. ENERGY STORAGE STUDY

SECTION 12. The North Carolina Policy Collaboratory (Collaboratory) at the University of North Carolina at Chapel Hill shall conduct a study on energy storage technology. The study shall address how energy storage technologies may or may not provide value to North Carolina consumers based on factors that may include capital investment, value to the electric grid, net utility savings, net job creation, impact on consumer rates and service quality, or any other factors related to deploying one or more of these technologies. The study shall also address the feasibility of energy storage in North Carolina, including services energy storage can provide that are not being performed currently, the economic potential or impact of energy storage deployment in North Carolina, and the identification of existing policies and recommended policy changes that may be considered to address a statewide coordinated energy storage policy. The Collaboratory shall provide the results of this study no later than December 1, 2018, to the Energy Policy Council and the Joint Legislative Commission on Energy Policy.

PART XIII. MORATORIUM ON ISSUANCE OF PERMITS FOR WIND ENERGY FACILITIES

SECTION 13.(a) Definitions. – The definitions set forth in Article 21C of Chapter 143 of the General Statutes apply throughout this act.

SECTION 13.(b) Moratorium Established. – There is hereby established a moratorium on the issuance of permits for wind energy facilities and wind energy facility expansions in this State. The purpose of this moratorium is to allow the General Assembly ample time to study the extent and scope of military operations in the State as directed in subsection (d) of this section and to consider the impact of future wind energy facilities and energy infrastructure on military operations, training, and readiness. Neither the Department of Environmental Quality nor the Coastal Resources Commission shall issue a permit for a wind energy facility or wind energy facility expansion for the period beginning January 1, 2017, and ending on December 31, 2018.

SECTION 13.(c) Exception. – The moratorium established by subsection (b) of this section shall not prohibit the consideration of an application or the issuance of a permit for a wind energy facility or wind energy facility expansion for either of the following:

- (1) Those facilities or facility expansions that received a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration on or before May 17, 2013.
- (2) If the applicant can show that a completed application, prepared in accordance with the requirements set out in G.S. 143-215.119(a), was submitted to the Department or the Commission on or before January 1, 2017.

SECTION 13.(d) Study. – The General Assembly shall study the extent and scope of military operations in the State in order to create a suite of maps and other relevant data and

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documentation that shall be employed to communicate the temporal and spatial use of land-, air-, and water-based military operations. Upon completion, the suite of maps and other relevant data and documentation may be utilized to identify areas of the State, both onshore and offshore, where energy infrastructure and development poses a threat to, encroaches upon, or otherwise reduces operations, training capabilities, or readiness. The Legislative Services Officer shall issue a request for proposals for (i) the collection of geospatial and other relevant data for land-, air-, and water-based military operations in the State and (ii) the creation of a suite of maps and other relevant data and documentation that can be used to communicate the temporal and spatial use of land-, air-, and water-based military operations in the State. In the conduct of the study, the selected contractor shall consult with the base commander, or the base commander's designee, of each major military installation in the State, United States Department of Defense officials, retired military personnel with relevant and applicable knowledge of training and operations in this State, the Military Affairs Commission, and any other person, agency, or organization that may be able to define the footprint of military operations in this State and identify, communicate, and relate the data necessary to prepare a comprehensive suite of maps and other relevant data and documentation that illustrate temporal and spatial use of land-, air-, and water-based military operations in the State.

SECTION 13.(e) Time Line. – The study directed by subsection (d) of this section shall adhere to the following time line:

- (1) The request for proposals (RFP) shall be issued on or before September 1, 2017.
- (2) A contract to award the RFP shall be executed on or before November 1, 2017.
- (3) The study, including the preparation of the suite of maps and other relevant data and documentation that illustrate temporal and spatial use of land-, air-, and water-based military operations in the State, findings, and recommendations, if any, shall be completed and submitted to the Legislative Services Officer on or before May 31, 2018, in order to inform the development of policies pertaining to the protection and preservation of major military installations during the 2018 Regular Session.

SECTION 13.(f) Notwithstanding any provision of law in S.L. 2017-57 or in the Committee Report accompanying that act to the contrary, the sum of one hundred fifty thousand dollars (\$150,000) reserved from the appropriation for pending legislation to support the requirements of House Bill 589, 2017 Regular Session, shall instead be used to support the study required by subsection (d) of this section.

PART XIV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 14.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

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SECTION 14.(b) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2017.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 1:58 p.m. this 27th day of July, 2017

Rule R8-71. COMPETITIVE PROCUREMENT OF RENEWABLE ENERGY.

- (a) Purpose. - The purpose of this rule is to implement the provisions of G.S. 62-110.8, and to provide for Commission oversight of the CPRE Program(s) designed by the electric public utilities subject to G.S. 62-110.8 for the competitive procurement and development of renewable energy facilities in a manner that ensures continued reliable and cost-effective electric service to customers in North Carolina.
- (b) Definitions.
 - (1) "Affiliate" is defined as provided in G.S. 62-126.3(1).
 - (2) "Avoided cost rates" – means an electric public utility's calculation of its long-term, levelized avoided energy and capacity costs utilizing the methodology most recently approved or established by the Commission as of 30 days prior to the date of the electric public utility's upcoming CPRE RFP Solicitation for purchases of electricity from qualifying facilities pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978, as amended. The electric public utility's avoided cost rates shall be used for purposes of determining the cost effectiveness of renewable energy resources procured through a CPRE RFP Solicitation. With respect to each CPRE RFP Solicitation, the electric public utility's avoided costs shall be calculated over the time period of the utility's pro forma contract(s) approved by the Commission.
 - (3) "Competitive Procurement of Renewable Energy (CPRE) Program" means the program(s) established by G.S. 62-110.8 requiring Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC, to jointly or individually procure an aggregate 2,660 megawatts (MW) of renewable energy resource nameplate capacity subject to the requirements and limitations established therein.
 - (4) "CPRE Program Methodology" means the methodology used to evaluate all proposals received in a given CPRE RFP Solicitation.
 - (5) "CPRE Program Procurement Period" means the initial 45-month period in which the aggregate 2,660 MW of renewable energy resource nameplate capacity is required to be procured under the CPRE Program(s) approved by the Commission.
 - (6) "CPRE RFP Solicitation" means a request for proposal solicitation process to be followed by the electric public utility under this Rule for the competitive procurement of renewable energy resource capacity pursuant to the utility's CPRE Program.
 - (7) "Evaluation Team" means employees and agents of an electric public utility that will be evaluating proposals submitted in response to the CPRE RFP Solicitation, including those acting for or on behalf of the electric public utility regarding any aspect of the CPRE RFP Solicitation evaluation or selection process.
 - (8) "IA Website" means the website established and maintained by the Independent Administrator as required by subsection (d)(7) of this Rule.

- (9) "Independent Administrator" means the third-party entity to be approved by the Commission that is responsible for independently administering the CPRE Program in accordance with G.S. 62-110.8 and this rule, developing and publishing the CPRE Program Methodology, and for ensuring that all responses to a CPRE RFP Solicitation are treated equitably.
 - (10) "Electric public utility" means an electric public utility that is required to comply with the requirements of G.S. 62-110.8.
 - (11) "Market participant" means a person who has expressed interest in submitting a proposal in response to a CPRE RFP Solicitation or has submitted such a proposal, including, unless the context requires otherwise, an Affiliate or an electric public utility, through its Proposal Team.
 - (12) "Proposal Team" means employees and agents of an electric public utility or an Affiliate that proposes to meet a portion of its CPRE Program requirements as provided in G.S. 62-110.8(b)(i) or (ii), which is more particularly described as a "Self-developed Proposal" in subsection (f)(2)(iv) of this rule, who directly support the Self-developed Proposal.
 - (13) "Renewable energy certificate" is defined as provided in G.S. 62-133.8(a)(6).
 - (14) "Renewable energy facility" means an electric generating facility that uses renewable energy resource(s) as its primary source of fuel, has a nameplate capacity rating of 80 MW or less, and is placed into service after the beginning of the CPRE Program Procurement Period.
 - (15) "Renewable energy resource" is as defined as provided in G.S. 62-133.8(a)(8).
 - (16) "T&D Sub-Team" means those members of the Evaluation Team responsible for assessing the impacts of proposals on the electric public utility's transmission and distribution systems and assigning any system upgrade costs attributable to each proposal pursuant to R8-71(f)(3)(iii). The T&D Sub-Team shall be designated in writing to the Independent Administrator and shall have no communication, either directly or indirectly, with the other members of the Evaluation Team or a market participant concerning any proposal, except through the Independent Administrator, from the date on which the draft CPRE RFP Solicitation documents are issued by the Independent Administrator until the CPRE RFP Solicitation is deemed closed.
- (c) Initial CPRE Program Filings and Program Guidelines
- (1) Each electric public utility shall develop and seek Commission approval of guidelines for the implementation of its CPRE Program and to inform market participants regarding the terms and conditions of, and process for participating in, the CPRE Program. The electric public utility shall file its initial CPRE Program guidelines at the time it initially proposes a CPRE Program for Commission approval. The CPRE Program guidelines should, at minimum, include the following:
 - (i) Planned allocation between the electric public utilities of the 2,660 MW required to be procured during the CPRE Program Procurement Period;

- (ii) Proposed timeframe for each electric public utility's initial CPRE RFP Solicitation(s) and planned initial procurement amount, as well as plans for additional CPRE RFP Solicitation(s) during the CPRE Program Procurement Period;
 - (iii) Minimum requirements for participation in the electric public utility's initial CPRE RFP Solicitation(s);
 - (iv) Proposed evaluation factors, including economic and noneconomic factors, for the evaluation of proposals submitted in response to CPRE RFP Solicitation(s); and
 - (v) Pro forma contract(s) to be utilized in the CPRE Program.
 - (2) At the time an electric public utility files its proposed CPRE Program guidelines with the Commission, it shall also identify any regulatory conditions and/or provisions of the electric public utility's code of conduct that the electric public utility seeks to waive for the duration of the CPRE Program Procurement Period pursuant to G.S. 62-110.8(h)(2).
- (d) Selection and Role of Independent Administrator.
- (1) In advance of the filing the initial CPRE Program required by subsection (c) of this Rule, the Commission shall invite and consider comments and recommendations from the electric public utilities, the Public Staff, and other interested persons, including market participants, regarding the selection of the Independent Administrator. In addition to the requirements in this Rule, the Commission may establish additional minimum qualifications and requirements for the Independent Administrator.
 - (2) Any person requesting to be considered for approval as the Independent Administrator shall be required to disclose any financial interest involving the electric public utilities implementing CPRE Programs or any market participant, including, but not limited to, all substantive assignments for electric public utilities, Affiliate(s), or market participant during the preceding three (3) years.
 - (3) In advance of the initial CPRE RFP Solicitation(s), the Commission shall select and approve the Independent Administrator. From the date the Independent Administrator is selected, no market participant shall have any communication with the Independent Administrator or the electric public utility pertaining to the CPRE RFP Solicitation, the RFP documents and process, or the evaluation process or any related subjects, except as those communications are specifically allowed by this rule.
 - (4) The Independent Administrator will be retained by the electric public utility or jointly by the electric public utilities for the duration of the CPRE Program Procurement Period under a contract to be filed with the Commission at least sixty (60) days prior to the public utilities' initial CPRE RFP Solicitation(s). The Independent Administrator shall remain subject to ongoing Commission oversight as part of the Commission's review of the electric public utilities' annual CPRE Program Compliance Reports.

- (5) The Independent Administrator's duties shall include:
 - (i) Monitor compliance with CPRE Program requirements.
 - (ii) Review and comment on draft CPRE Program filings, plans, and other documents.
 - (iii) Facilitate and monitor permissible communications between the electric public utilities' Evaluation Team and other participants in the CPRE RFP solicitations.
 - (iv) Develop and publish the CPRE Program Methodology that shall ensure equitable review between an electric public utility's Self-developed Proposal(s) as addressed in subsection (f)(2)(iv) and proposals offered by third-party market participants.
 - (v) Receive and transmit proposals.
 - (vi) Independently evaluate the proposals.
 - (vii) Monitor post-proposal negotiations between the electric public utilities' Evaluation Team(s) and participants who submitted winning proposals.
 - (viii) Evaluate the electric public utility's Self-developed Proposals.
 - (ix) Provide an independent certification to the Commission in the CPRE Compliance Report that all electric public utility and third party proposals were evaluated under the published CPRE Program methodology and that all proposals were treated equitably through the CPRE RFP Solicitation(s).
- (6) Prior to the initial CPRE RFP Solicitation, but on or before the date determined by Commission order, Independent Administrator shall develop and publish the CPRE Program Methodology. Prior to developing and publishing the CPRE Program Methodology, the Independent Administrator shall meet with the Evaluation Team(s) to share evaluation techniques and practices. The Independent Administrator shall also meet with the Evaluation Team(s) at least 60 days prior to each subsequent CPRE RFP Solicitation to discuss the efficacy of the CPRE Program Methodology and whether changes to the CPRE Program Methodology may be appropriate based upon the anticipated contents of the next CPRE RFP Solicitation. If the CRPE RFP Solicitation allows for electric public utility self-build options or Affiliate proposals, the Independent Administrator shall ensure that if any non-publicly available transmission or distribution system information is used in preparing proposals by the electric public utility or Affiliate(s), such information is made available to third parties that notified the Independent Administrator or their intent to submit a proposal in response to the that CPRE RFP Solicitation.
- (7) The Independent Administrator shall maintain the IA Website to support administration and implementation of the CPRE Program and shall post the CPRE RFP Solicitation documents, the CPRE Program Methodology, participant FAQs, and any other pertinent documents on the IA Website.
- (8) In carrying out its duties, the Independent Administrator shall work in coordination with the Evaluation Team(s) with respect to CPRE Program implementation and the CPRE RFP Solicitation proposal evaluation

process in the manner and to the extent as more specifically provided in subsection (f) of this rule.

- (9) If the Independent Administrator becomes aware of a violation of any CPRE Program requirements, the Independent Administrator shall immediately report that violation, together with any recommended remedy, to the Commission.
 - (10) The Independent Administrator's fees shall be funded through reasonable proposal fees collected by the electric public utility. The electric public utility shall be authorized to collect proposal fees up to \$10,000 per proposal to defray its costs of evaluating the proposals. In addition, the electric public utility may charge each participant an amount equal to the estimated total cost of retaining the Independent Administrator divided by the reasonably anticipated number of proposals. To the extent that insufficient funds are collected through these methods to pay of the total cost of retaining the Independent Administrator, the electric public utility shall pay the balance and subsequently charge the winning participants in the CPRE RFP Solicitation.
- (e) Communications Between CPRE Market Participants.
- (1) From the date an electric public utility announces a CPRE RFP Solicitation, until the Independent Administrator declares the CPRE RFP Solicitation closed, there shall be no communications between market participants regarding the substantive aspects of their proposals or between the electric public utility and market participants. Such communications shall be conducted through the Independent Administrator as permitted by this subsection.
 - (2) The Evaluation Team or the Independent Administrator may request further information from any market participant regarding its proposal during the process of evaluating and selecting proposals. These communications shall be conducted through the Independent Administrator and shall be conducted in a manner that keeps confidential the identity of the market participant.
 - (3) On or before the date an electric public utility announces a CPRE RFP Solicitation, the Proposal Team shall be separately identified and physically segregated from the Evaluation Team for purposes of all activities that are part of the CPRE RFP Solicitation process. The names and job titles of each member of the Proposal Team and the Evaluation Team shall be reduced to writing and submitted to the Independent Administrator.
 - (4) There shall be no communications, either directly or indirectly, between the Proposal Team and Evaluation Team during the CPRE RFP Solicitation regarding any aspect of the CPRE RFP Solicitation process, except (i) necessary communications as may be made through the Independent Administrator and (ii) negotiations between the Proposal Team and the Evaluation Team for a final power purchase agreement after the Proposal Team has been selected by the electric public utility as a winning proposal. The Evaluation Team will have no direct or indirect contact or

communications with the Proposal Team or any other participant, except through the Independent Administrator as described further herein, until such time as a winning proposal or proposals are selected by the electric public utility and negotiations for a final power purchase agreement(s) have begun.

- (5) At no time shall any information regarding the CPRE RFP Solicitation process be shared with any market participant, including the Proposal Team, unless the information is shared with all competing participants contemporaneously and in the same manner.
 - (6) Within fifteen (15) days of the date an electric public utility announces a planned CPRE RFP Solicitation, each member of the Proposal Team shall execute an acknowledgement that he or she agrees to abide by the restrictions and conditions contained in subsection (e) of this rule for the duration of the CPRE RFP Solicitation. If the Proposal Team's proposal is selected by the electric public utility after completion of the CPRE RFP Solicitation, each member of the Proposal Team shall then also execute an acknowledgement that he or she has met the restrictions and conditions contained in subsection (e) of this rule. The electric public utility shall provide these acknowledgements to the Independent Administrator and shall file the acknowledgements with the Commission in support of its annual CPRE Compliance Report.
 - (7) Should any participant, including an Affiliate or electric public utility's Proposal Team, attempt to contact a member of the Evaluation Team directly, such participant shall be directed to the Independent Administrator for all information and such communication shall be reported to the Independent Administrator by the Evaluation Team member. Within ten (10) days of the date that the Independent Administrator issues the CPRE RFP Solicitation, each Evaluation Team member shall execute an acknowledgement that he or she agrees to abide by the conditions contained in subsection (e) of this rule for the duration of the CPRE RFP Solicitation. If the Proposal Team's proposal is selected by the electric public utility after completion of the CPRE RFP Solicitation, the Evaluation Team shall also execute an acknowledgement that he or she has met the restrictions and conditions contained in subsection (e)(3)-(5) above. The electric public utility shall provide these acknowledgements to the Independent Administrator and shall file the acknowledgements with the Commission in support of its annual CPRE Compliance Report.
- (f) CPRE RFP Solicitation Structure and Process.
- (1) Identification of Market Participants; Design of CPRE RFP Solicitation.
 - (i) Prior to the initial CPRE RFP Solicitation, the electric public utility shall provide the Independent Administrator with a list of potential market participants that have expressed interest, in writing, in participating in the CPRE RFP Solicitation or have participated in recent renewable energy resource solicitations issued by the electric public utilities. The Independent Administrator shall publish notice of

the draft CPRE RFP Solicitation on the IA Website, and prepare the list of potential participants to whom notice of the upcoming CPRE RFP Solicitation will be sent.

- (ii) The electric public utility shall prepare an initial draft of the CPRE RFP Solicitation guidelines and documents, including RFP procedures, evaluation factors, credit and security obligations, a pro forma power purchase agreement, the Avoided Cost Rate against which proposals will be evaluated, and a planned schedule for completing the CPRE RFP Solicitation and selecting winning proposals. No later than sixty (60) days prior to the planned issue date of the CPRE RFP Solicitation, the electric public utility shall provide the initial draft of the CPRE RFP Solicitation guidelines and documents to the Independent Administrator for posting on the IA Website.
- (iii) The evaluation factors included in the CPRE RFP Solicitation guidelines shall identify all economic and noneconomic factors to be considered by the Independent Administrator in its evaluation of proposals. In addition to the guidelines, a pro forma power purchase agreement containing all expected material terms and conditions shall be included in the CPRE RFP Solicitation documents provided to the Independent Administrator and shall be filed with the Commission at least thirty (30) days prior to the planned CPRE RFP solicitation issuance date.
- (iv) The Independent Administrator, in coordination with the electric public utility, may conduct a pre-issuance market participants' conference to publicly discuss the draft CPRE RFP Solicitation guidelines and documents with market participants. Market participants may submit written questions or recommendations to the Independent Administrator regarding the draft CPRE RFP Solicitation guidelines and documents in advance of the market participants' conference. All such questions and recommendations shall be posted on the IA Website. The Independent Administrator shall have no private communication with any potential participants regarding any aspect of the draft CPRE RFP Solicitation documents.
- (v) Based on the input received from potential participants, and on its own review of the draft CPRE RFP Solicitation documents, the Independent Administrator shall submit a report to the electric public utility, at least twenty (20) days prior to the planned CPRE RFP Solicitation issuance date, detailing market participants' comments and the Independent Administrator's recommendations for changes to the CPRE RFP Solicitation documents, if any. This report shall also be posted on the IA Website for review by potential participants.
- (vi) At least five (5) days prior to the planned CPRE RFP Solicitation issuance date, the electric public utility shall submit its final version of the CPRE RFP Solicitation documents to the Independent Administrator to be posted on the IA Website.

- (vii) At any time after the CPRE RFP Solicitation is issued, through the time winning proposals are selected by the electric public utility, the schedule for the solicitation may be modified upon mutual agreement of the electric public utility and the Independent Administrator, with equal notice provided to all market participants, or upon approval by the Commission. Any modification to the CPRE RFP Solicitation schedule will be posted to the IA Website.
- (2) Issuance of CPRE RFP Solicitation.
 - (i) The Independent Administrator shall transmit the final CPRE RFP Solicitation to the market participants via the IA Website. Upon issuance of the final CPRE RFP Solicitation, the only communications permitted prior to submission of proposals shall be conducted through the Independent Administrator. Participants' questions and the Independent Administrator's responses shall be posted on the IA Website, but, to the extent possible, shall be posted in a manner that the identity of the participant remains confidential. To the extent such questions and responses contain competitively sensitive information that a particular participant deems to be a trade secret, this information may be redacted by the participant.
 - (ii) The electric public utility shall not communicate with any market participant regarding the RFP Process, the content of the CPRE RFP Solicitation documents, or the substance of any potential response by a participant to the RFP; provided, however, the electric public utility shall provide timely, accurate responses to the Independent Administrator's request for information regarding any aspect of the CPRE RFP Solicitation documents or the CPRE RFP Solicitation process.
 - (iii) Participants shall submit proposals pursuant to the solicitation schedule contained in the CPRE RFP Solicitation, and in the format required by the Independent Administrator to facilitate the evaluation and selection of proposals. The Independent Administrator shall have access to all proposals and all supporting documentation submitted by market participants in the course of the CPRE RFP Solicitation process.
 - (iv) If the electric public utility wishes to consider an option for full or partial ownership of a renewable energy facility as part of the CPRE RFP solicitation, the utility must submit its construction proposal (Self-developed Proposal) to provide all or part of the capacity requested in the CPRE RFP solicitation to the Independent Administrator at the time all other proposals are due. Once submitted, the Self-developed Proposal may not be modified, except in the event that the electric public utility demonstrates to the satisfaction of the Independent Administrator that the Self-developed Proposal contains an error and that correction of the error will not be unduly harmful to the other market participants, the electric public utility may correct the error. Persons who have participated or

assisted in the preparation of the Self-developed Proposal on behalf of the electric public utility's Proposal Team in any way may not be a member of the Affiliate's Proposal Team, nor communicate with the Affiliate's Proposal Team during the RFP Process about any aspect of the RFP Process.

- (3) Evaluation and Selection of Proposals. The evaluation and selection of proposals received in response to a CPRE RFP Solicitation shall proceed in two steps as set forth in this subdivision, and shall be subject to the Commission's oversight as provided in G.S. 62-110.8 and this rule.
- (i) In step one, the Independent Administrator shall evaluate all proposals based upon the CPRE RFP Solicitation evaluation factors using the CPRE Program Methodology. The Independent Administrator shall conduct this evaluation in an appropriate manner designed to ensure equitable review of all proposals based on the economic and noneconomic factors contained in the CPRE RFP Solicitation evaluation factors. As a result of the Independent Administrator's evaluation, the Independent Administrator shall, subject to the provisions of subsection (f)(3)(ii) of this Rule, eliminate proposals that fail to meet the CPRE RFP Solicitation evaluation factors and then develop and deliver to the electric public utility's T&D Sub-Team a list of proposals ranked in order from most competitive to least competitive. The Independent Administrator shall redact from the proposals included in the list delivered to the electric public utility any information that identifies the market participant that submitted the proposal and any information in the proposal that is not reasonably necessary for the utility to complete step two of the evaluation process, including economic factors such as cost and pricing information.
 - (ii) As a part of the step one evaluation, the Independent Administrator may, in its discretion, allow a market participant to modify or clarify its proposal to cure a non-conformance that would otherwise require elimination of the proposal, and may consult with the electric public utility's Evaluation Team to determine whether a proposal meets the CPRE RFP Solicitation Evaluation factors. In consulting with the Evaluation Team, the Independent Administrator shall maintain the anonymity of the market participant that submitted the proposal. The Independent Administrator shall document the reasons for the elimination of a proposal.
 - (iii) In step two, the electric public utility's T&D Sub-Team shall assess the system impact of the proposals in the order ranked by the Independent Administrator and assign any system upgrade costs attributable to each proposal included in the list provided by the Independent Administrator. The T&D Sub-Team shall conduct this assessment in a reasonable manner, with oversight by the Independent Administrator, and in parallel with the Independent Administrator's allowing modification or clarification of proposals and

consultation with the Evaluation Team, as provided in (f)(3)(ii), if applicable. The electric public utility's T&D Sub-Team shall provide its assessment of system upgrade costs to the Independent Administrator, who shall first determine whether such system upgrade costs have been appropriately assigned and then determine whether the original ranking of proposals needs to be modified to recognize the system upgrade costs assigned to each proposal. The Independent Administrator shall also eliminate any proposal where necessary in order to comply with G.S. 62-110.8(b)(4). If no re-ranking is needed and the Independent Administrator has concluded its evaluation pursuant to (f)(3)(ii) of this Rule, if applicable, then the electric public utility shall select the winning proposals in accordance with subsection (iv) below. If the Independent Administrator modifies the original ranking as result of the assignment of system upgrade costs or the elimination of a proposal, it shall deliver to the T&D Sub-Team of the electric public utility such revised list of proposals ranked in order from most competitive to least competitive (with market participant information redacted as described in step one) and the assignment of system upgrade costs described in this subsection shall be performed again by the T&D Sub-Team and provided to the Independent Administrator, who will re-rank the proposals. This process shall continue on an iterative basis, as directed by the Independent Administrator, until the Independent Administrator determines that the total generating capacity sought in the CPRE RFP Solicitation is satisfied in the most cost-effective manner after taking into account the assignment of system upgrade costs through this step two.

- (iv) Upon completion of step two and determination by the Independent Administrator of the final ranking of the proposals, the Independent Administrator shall deliver to the Evaluation Team of the electric public utility the final ranked list of proposals. The electric public utility shall select proposals in the order ranked by the Independent Administrator until the total generating capacity sought in the CPRE RFP Solicitation is satisfied, and the Independent Administrator shall provide the electric public utility with the identity of the market participants that were so selected. Upon publication of the list of proposals selected, the Independent Administrator shall declare the CPRE RFP Solicitation closed.

- (v) The electric public utility shall proceed to execute contracts (where applicable) with each of the market participants who submitted a proposal that was selected. If a market participant selected pursuant to subsection (iv) fails to execute a contract during the contracting period identified in the CPRE RFP Solicitation, the electric public utility shall provide to the Independent Administrator a short and plain explanation regarding such failure and the Independent Administrator, after consultation with the Evaluation Team, shall determine whether the next-ranked proposal or proposals should be selected in order to procure the total generating capacity sought in the CPRE RFP Solicitation. For the avoidance of doubt, the Evaluation Team shall not have access to the identifying information of any such proposals prior to the Independent Administrator's determination. If no additional proposals are selected, the capacity amount associated with the proposal of the market participant that failed to execute a contract shall be included in a subsequent CPRE RFP Solicitation; provided that if, no further CPRE RFP Solicitations are scheduled, the electric public utility shall take such action as is directed by the Commission.
- (g) CPRE Program Plan.
 - (1) Each electric public utility shall file its initial CPRE Program plan with the Commission at the time initial CPRE Program Guidelines are filed under subsection (c) and thereafter shall be filed on or before September 1 of each year. The electric public utility may file its CPRE Program plan as part of its future biennial integrated resource plan filings, or update thereto, and the CPRE Program plan filed pursuant to this rule will be reviewed in the same docket as the electric public utility's biennial integrated resource plan or update filing.
 - (2) Each year, beginning in 2018, each electric public utility shall file with the Commission an updated CPRE Program plan covering the remainder of the CPRE Program Procurement Period. At a minimum, the plan shall include the following information:
 - (i) an explanation of whether the electric public utility is jointly or individually implementing the aggregate CPRE Program requirements mandated by G.S. 62-110.8(a);
 - (ii) a description of the electric public utility's planned CPRE RFP Solicitations and specific actions planned to procure renewable energy resources during the CPRE Program planning period;
 - (iii) an explanation of how the electric public utility has allocated the amount of CPRE Program resources projected to be procured during the CPRE Program Procurement Period relative to the aggregate CPRE Program requirements;
 - (iv) if designated by location, an explanation of how the electric public utility has determined the locational allocation within its balancing authority area;

- (v) an estimate of renewable energy generating capacity that is not subject to economic dispatch or economic curtailment that is under development and projected to have executed power purchase agreements and interconnection agreements with the electric public utility or that is otherwise projected to be installed in the electric public utility's balancing authority area within the CPRE Program planning period; and
 - (vi) a copy of the electric public utility's CPRE Program guidelines then in effect as well as a pro forma power purchase agreement used in its most recent CPRE RFP Solicitation.
- (3) Upon the expiration of the CPRE Program Procurement Period, the electric public utility shall file a CPRE Program Plan in the following calendar year identifying any additional CPRE Program procurement requirements, as provided for in G.S. 62-110.8(a).
- (4) In any year in which an electric public utility determines that it has fully complied with the CPRE Program requirements set forth in G.S. 62-110.8(a), the electric public utility shall notify the Commission in its CPRE Program Plan, and may petition the Commission to discontinue the CPRE Program Plan filing requirements beginning in the subsequent calendar year.
- (h) CPRE Program Compliance Report.
 - (1) Each electric public utility shall file its annual CPRE Program compliance report, together with direct testimony and exhibits of expert witnesses, on the same date that it files its application to recover costs pursuant to subsection (j) of this rule. The Commission shall consider each electric public utility's CPRE Program compliance report at the hearing provided for in subsection (j) and shall determine whether the electric public utility is in compliance with the CPRE Program requirements of G.S. 62-110.8.
 - (2) Beginning in 2019, and each year thereafter, each electric public utility shall file with the Commission a report describing the electric public utility's competitive procurement of renewable energy resources under its CPRE Program and ongoing actions to comply with the requirements of G.S. 62-110.8 during the previous calendar year, which shall be the "reporting year." The report shall include the following information, including supporting documentation:
 - (i) a description of CPRE RFP Solicitation(s) undertaken by the electric public utility during the reporting year, including an identification of each proposal eliminated pursuant to subsection (f)(3)(ii) of this rule and an explanation of the utility's basis for elimination of each proposal;
 - (ii) a description of the sources, amounts, and costs of third-party power purchase agreements and proposed authorized revenues for utility-owned assets for renewable energy resources procured through CPRE RFP Solicitation(s) during the reporting year, including the dates of all CPRE Program contracts or utility

- commitments to procure renewable energy resources during the reporting year;
 - (iii) the forecasted nameplate capacity and megawatt-hours of renewable energy and the number of renewable energy certificates obtained through the CPRE Program during the reporting year;
 - (iv) identification of all proposed renewable energy facilities under development by the electric public utility that were proposal into a CPRE RFP Solicitation during the reporting year, including whether any non-publicly available transmission or distribution system operations information was used in preparing the proposal, and, if so, an explanation of how such information was made available to third parties that notified the utility of their intention to submit a proposal in the same CPRE RFP Solicitation;
 - (v) the electric public utility's avoided cost rates applicable to the CPRE RFP Solicitation(s) undertaken during the reporting year and confirmation that all renewable energy resources procured through a CPRE RFP Solicitation are priced at or below the electric public utility's avoided cost rates;
 - (vi) the actual total costs and authorized revenues incurred by the electric public utility during the calendar year to comply with G.S. 62-110.8;
 - (vii) the status of the electric public utility's compliance with the aggregate CPRE Program procurement requirements set forth in G.S. 62-110.8(a);
 - (viii) a copy of the contract then in effect between the electric public utility and Independent Administrator, supporting information regarding the administrative fees collected from participants in the CPRE RFP Solicitation during the reporting year, as well as any cost incurred by the electric public utility during the reporting year to implement the CPRE RFP Solicitation; and
 - (ix) certification by the Independent Administrator that all public utility and third-party proposal responses were evaluated under the published CPRE Program Methodology and that all proposals were treated equitably through the CPRE RFP Solicitation(s) during the reporting year.
- (i) Compliance with CPRE Program Requirements.
- (1) An electric public utility shall be in compliance with the CPRE Program requirements during a given year where the Commission determines that the electric public utility's CPRE Program plan is reasonably designed to meet the requirements of G.S. 62-110.8 and, based on the utility's most recently filed CPRE Program compliance report, that the electric public utility is reasonably and prudently implementing the CPRE Program requirements.
 - (2) An electric public utility, or other interested party, may petition the Commission to modify or delay the provisions of G.S. 62-110.8 in whole or

in part. The Commission shall allow a modification or delay upon finding that it is in the public interest to do so.

- (3) Renewable energy certificates purchased or earned by an electric public utility while complying with G.S. 62-110.8 must have been earned after January 1, 2018, and may be retired to meet an electric public utility's REPS compliance obligations under G.S. 62-133.8.
 - (4) The owner of any renewable energy facility included as part of a proposal selected through a CPRE RFP Solicitation shall register the facility as a new renewable energy facility under Rule R8-66 no later than 60 calendar days from receiving written notification that the facility was included as part of a proposal selected and shall participate in the North Carolina Renewable Energy Tracking System (NC-RETS) to facilitate the issuance or importation of renewable energy certificates contracted for under the CPRE Program.
- (j) Cost or authorized revenue recovery.
- (1) Beginning in 2018, for each electric public utility, the Commission shall schedule an annual public hearing pursuant to G.S. 62-110.8(g) to review the costs incurred or anticipated to be incurred by the electric public utility to comply with G.S. 62-110.8. The annual rider hearing for each electric public utility will be scheduled as soon as practicable after the hearing held by the Commission for the electric public utility under Rule R8-55.
 - (2) The Commission shall permit each electric public utility to charge an increment or decrement as a rider to its rates to recover in a timely manner the reasonable and prudent costs incurred and anticipated to be incurred to implement its CPRE Program and to comply with G.S. 62-110.8. In any application for cost recovery and collection of authorized revenues wherein the utility proposes to recover costs or collect revenues attributable to a utility-owned renewable energy facility calculated on a market basis, in lieu of a cost-of-service basis, the utility shall support its application with testimony specifically addressing the calculation of those costs and revenues sufficient to demonstrate that recovery on a market basis is in the public interest.
 - (3) Unless otherwise ordered by the Commission, the test period for each electric public utility shall be the same as its test period for purposes of Rule R8-55.
 - (4) Rates set pursuant to this section shall be recovered during a fixed recovery period that shall coincide, to the extent practical, with the recovery period for the cost of fuel and fuel-related cost rider established pursuant to Rule R8-55.
 - (5) The costs and authorized revenue will be further modified through the use of a CPRE Program experience modification factor (CPRE EMF) rider. The CPRE EMF rider will reflect the difference between reasonable and prudently-incurred CPRE Program projected costs, authorized revenue, and the revenues that were actually realized during the test period under the CPRE Program rider then in effect. Upon request of the electric public utility, the Commission shall also incorporate in this determination the

experienced over-recovery or under-recovery of the costs and authorized revenue up to 30 days prior to the date of the hearing, provided that the reasonableness and prudence of these costs and authorized revenues shall be subject to review in the utility's next annual CPRE Program cost recovery hearing.

- (6) The CPRE EMF rider will remain in effect for a fixed 12-month period following establishment and will carry through as a rider to rates established in any intervening general rate case proceedings.
- (7) Pursuant to G.S. 62-130(e), any over-collection of reasonably and prudently-incurred costs and authorized revenues to be refunded to an electric public utility's customers through operation of the CPRE EMF rider shall include an amount of interest, at such rate as the Commission determines to be just and reasonable, not to exceed the maximum statutory rate.
- (8) Each electric public utility shall follow deferred accounting with respect to the difference between actual reasonably and prudently-incurred costs or authorized revenue and related revenues realized under rates in effect.
- (9) The annual increase in the aggregate amount of costs recovered under G.S. 62-110.8(g) in any recovery period from its North Carolina retail customers shall not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year determined as of December 31 of the previous calendar year. Any amount in excess of that limit shall be carried over and recovered in the next recovery period when the annual increase in the aggregate amount of costs to be recovered is less than one percent (1%).
- (10) Each electric public utility, at a minimum, shall submit to the Commission for purposes of investigation and hearing the information required for the CPRE Program compliance report for the 12-month test period established in subsection (3) consistent with Rule R8-55, accompanied by supporting workpapers and direct testimony and exhibits of expert witnesses, and any change in rates proposed by the electric public utility at the same time that it files the information required by Rule R8-55.
- (11) The electric public utility shall publish a notice of the annual hearing for 2 successive weeks in a newspaper or newspapers having general circulation in its service area, normally beginning at least 30 days prior to the hearing, notifying the public of the hearing before the Commission pursuant to G.S. 62-110.8(g) and setting forth the time and place of the hearing.
- (12) Persons having an interest in said hearing may file a petition to intervene setting forth such interest at least 15 days prior to the date of the hearing. Petitions to intervene filed less than 15 days prior to the date of the hearing may be allowed at the discretion of the Commission for good cause shown.
- (13) The Public Staff and intervenors shall file direct testimony and exhibits of expert witnesses at least 15 days prior to the hearing date. If a petition to intervene is filed less than 15 days prior to the hearing date, it shall be

accompanied by any direct testimony and exhibits of expert witnesses the intervenor intends to offer at the hearing.

- (14) The electric public utility may file rebuttal testimony and exhibits of expert witnesses no later than 5 days prior to the hearing date.
 - (15) The burden of proof as to whether CPRE Program-related costs or authorized revenues to be recovered under this section were reasonable and prudently-incurred shall be on the electric public utility.
- (k) Expedited review and approval of Certificate of Public Convenience and Necessity for renewable energy facilities owned by an electric public utility and procured under the CPRE Program.
- (1) Scope of Section.
 - (i) This section applies to applications for a certificate of public convenience and necessity pursuant to G.S. 62-110.8(h)(3) filed by an electric public utility for the construction and operation of renewable energy facilities owned by an electric public utility for compliance with the requirements of G.S. 62-110.8, and to petitions to transfer a certificate of public convenience and necessity to an electric public utility for compliance with the requirements of G.S. 62-110.8. Applications and petitions filed pursuant to this subsection shall be required to comply with the requirements of this subsection and shall not otherwise be required to comply with the requirements of G.S. 62-82 or 62-110.1, or Commission Rules R8-61 or R8-64.
 - (ii) The construction of a renewable energy facility for the generation of electricity shall include not only the building of a new building, structure or generator, but also the renovation or reworking of an existing building, structure or generator in order to enable it to operate as a generating facility.
 - (iii) This section shall apply to any person within its scope who begins construction of a renewable energy facility without first obtaining a certificate of public convenience and necessity. In such circumstances, the application shall include an explanation for the applicant's beginning of construction before the obtaining of the certificate.
 - (iv) This section applies to a petition to transfer an existing certificate of public convenience and necessity issued for renewable energy facilities that an electric public utility acquires from a third party with the intent to own and operate the renewable energy facility to comply with the requirements of G.S. 62-110.8.
 - (2) The Application. The application shall be comprised of the following exhibits:
 - (i) Exhibit 1 shall contain:
 - 1. The full and correct name, business address, business telephone number, and electronic mailing address of the electric public utility;

2. A statement describing the electric public utility's corporate structure and affiliation with any other electric public utility, if any; and
 3. The ownership of the facility site and, if the owner is other than the applicant, the applicant's interest in the facility site.
- (ii) Exhibit 2 shall contain the following site information:
1. A color map or aerial photo showing the location of the generating facility site in relation to local highways, streets, rivers, streams, and other generally known local landmarks, with the proposed location of major equipment indicated on the map or photo, including: the generator, fuel handling equipment, plant distribution system, startup equipment, site boundary, planned and existing pipelines, planned and existing roads, planned and existing water supplies, and planned and existing electric facilities. A U.S. Geological Survey map or an aerial photo map prepared via the State's geographic information system is preferred;
 2. The E911 street address, county in which the proposed facility would be located, and GPS coordinates of the approximate center of the proposed facility site to the nearest second or one thousandth of a degree; and
 3. Whether the electric public utility is the site owner, and, if not, providing the full and correct name of the site owner and the electric public utility's interest in the site.
- (iii) Exhibit 3 shall include:
1. The nature of the renewable energy facility, including the type and source of its power or fuel;
 2. A description of the buildings, structures and equipment comprising the renewable energy facility and the manner of its operation;
 3. The gross and net projected maximum dependable capacity of the renewable energy facility as well as the renewable energy facility's nameplate capacity, expressed as megawatts (alternating current);
 4. The projected date on which the renewable energy facility will come on line;
 5. The service life of the project;
 6. The projected annual hourly production profile for the first full year of operation of the renewable energy facility in kilowatt-hours, including an detailed explanation of potential factors influencing the shape of the production profile, including the following, if applicable: fixed tilt or tracking panel arrays, inverter loading ratio, over-paneling, clipped energy, or inverter AC output power limits; the anticipated kilowatt and kilowatt-hour outputs, on-peak and off-peak, for each month of the year;

7. The projected annual production of renewable energy certificates that is eligible for compliance with the State's renewable energy and energy efficiency portfolio standard.
- (iv) Exhibit 3 shall include:
 1. A complete list of all federal and state licenses, permits and exemptions required for construction and operation of the renewable energy facility and a statement of whether each has been obtained or applied for; and
 2. A copy of those that have been obtained should be filed with the application; a copy of those that have not been obtained at the time of the application should be filed with the Commission as soon as they are obtained.
- (v) Exhibit 4 shall contain the expected cost to construct, operate and maintain the proposed facility.
- (vi) Exhibit 5 shall contain the following resource planning information:
 1. The utility's most recent biennial report and the most recent annual report filed pursuant to Rule R8-60, plus any proposals by the utility to update said reports;
 2. The extent to which the proposed facility would conform to the utility's most recent biennial report and the most recent annual report that was filed pursuant to Rule R8-60;
 3. A statement of how the facility would contribute to resource and fuel diversity, whether the facility would have dual-fuel capability, and how much fuel would be stored at the site;
 4. An explanation of the need for the facility, including information on energy and capacity forecasts; and
 5. An explanation of how the proposed facility meets the identified energy and capacity needs, including the anticipated facility capacity factor, heat rate, and service life.
- (3) Petition for transfer of certificate of public convenience and necessity. When an electric public utility procures an operating renewable energy facility through a CPRE RFP Solicitation with intent to own and operate the facility and the renewable energy facility has been previously issued a certificate of public convenience and necessity, the electric public utility shall petition the Commission to transfer the certificate of public convenience and necessity. A petition requesting that the Commission transfer a certificate of public convenience and necessity shall include the following:
 - (i) a description of the terms and conditions of the electric public utility's procurement of the renewable energy facility under the CPRE Program and an identification of any significant changes to the information in the application for the certificate of public convenience and necessity, which the Commission considered in the issuance of the certificate for that facility;

- (ii) The signature and verification of the electric public utility's employee or agent responsible for preparing the petition stating that the contents thereof are known to the employee or agent and are accurate to the best of that person's knowledge; and
 - (iii) The verification of a person authorized to act on behalf of the certificate holder that it intends to transfer the certificate of public convenience and necessity to the electric public utility.
- (4) Procedure for Acquiring Project Development Assets. — When an electric public utility purchases from a third party developer assets that include the rights to construct and operate a renewable energy facility that has been issued a certificate of public convenience and necessity with the intent of further developing the project and submitting the renewable energy facility in to a future CPRE RFP Solicitation, the electric public utility shall provide notice to the Commission in the docket where the certificate of public convenience and necessity was issued that the electric public utility has acquired ownership of the project development assets. The electric public utility shall not be required to submit a petition for transfer of the certificate of public convenience and necessity unless and until the project is selected through a CPRE RFP Solicitation or the electric public utility otherwise elects to proceed with construction of the renewable energy facility. If the project is selected through a CPRE RFP Solicitation or the electric public utility otherwise elects to proceed with construction of the renewable energy facility, the electric public utility shall file a petition to transfer the certificate of public convenience and necessity, and the Commission shall process the petition in the same manner provided in (6) of this subsection. In any event, the petition shall be filed prior to the electric public utility commencing the construction or operation of the renewable energy facility, and no rights under the certificate of public convenience and necessity shall transfer to the electric public utility unless and until the Commission approves transfer of the certificate.
- (5) Procedure for expedited review of applications for a certificate of public convenience and necessity. — The Commission will process applications for certificates of public convenience and necessity filed pursuant to this section as follows:
 - (i) The electric public utility shall file with the Commission its preliminary plans at least 30 days before filing an application for a certificate of public convenience and necessity. The preliminary plans shall include the following:
 - 1. Exhibit 1 shall contain the following site information:
 - a. A color map or aerial photo (a U.S. Geological Survey map or an aerial photo map prepared via the State's geographic information system is preferred) showing the proposed site boundary and layout, with all major equipment, including the generator and inverters, planned and existing roads, planned and existing water supplies, and planned and existing electric facilities;

- b. The E911 street address, county in which the proposed facility would be located, and GPS coordinates of the approximate center of the proposed facility site to the nearest second or one thousandth of a degree;
 - c. The full and correct name of the site owner and, if the owner is other than the applicant, the applicant's interest in the site;
 - d. A brief general description of practicable transmission line routes emanating from the site, including a color map showing their general location; and
 - e. The gross, net, and nameplate generating capacity of each unit and the entire facility's total projected dependable capacity in alternating current (AC).
 - 2. Exhibit 2 shall contain a list of all agencies from which approvals will be sought covering various aspects of any generation facility constructed on the site and the title and nature of such approvals; and
 - 3. Exhibit 3 shall include a schedule showing the anticipated beginning dates for construction, testing, and commercial operation of the generating facility.
- (ii) Within ten days of the filing of its preliminary plans, the Applicant shall cause to be published a notice of its filing of preliminary plans to apply for an expedited certificate of public convenience and necessity in a newspaper having general circulation in the area where the generating facility. The notice shall be in the form provided in the Appendix to this Chapter, and the applicant shall be responsible for filing with the Commission an affidavit of publication to the effect that the notice was published as required by this rule;
 - (iii) The Chief Clerk will deliver 2 copies of the electric public utility's preliminary plans to the Clearinghouse Coordinator of the Office of Policy and Planning of the Department of Administration for distribution by the Coordinator to State agencies having an interest in the application. The Chief Clerk will request comments from state agencies within 30 days of delivering notice to the Clearinghouse Coordinator.
 - (iv) The applicant shall file the application within 60 days of filing of its preliminary plans.
 - (v) The Commission will issue an order requesting the Public Staff to investigate the application and present its findings, conclusions, and recommendations at the Regular Commission Staff Conference to be held on the third Monday following the filing of the application, and requiring the applicant to publish notice of the application and of the time and place of the Staff Conference where the application will be considered. The notice shall be published once in a newspaper of general circulation in the area where the generating facility is proposed to be constructed. The applicant shall be responsible for

- filing with the Commission an affidavit of publication to the effect that the notice was published as required by this rule.
- (vi) If significant complaint(s) are filed with the Commission prior to the Regular Commission Staff Conference where the application is to be considered, the Public Staff shall report the same to the Commission and the Commission shall schedule a public hearing to determine whether a certificate should be awarded. The Commission will give reasonable notice of the time and place of the hearing to the applicant and to each complaining party, and require the applicant to publish notice of the time and place of the hearing. The notice shall be published once in a newspaper of general circulation in the area where the generating facility is proposed to be constructed. The applicant shall be responsible for filing with the Commission an affidavit of publication to the effect that the notice was published as required by this rule.
 - (vii) If no significant complaint(s) are received within the time specified, the Commission may, upon its own initiative, order and schedule a hearing to determine whether a certificate should be awarded. The Commission will give reasonable notice of the time and place of the hearing to the applicant and require the applicant to publish notice of the time and place of the hearing. The notice shall be published once in a newspaper of general circulation in the area where the generating facility is proposed to be constructed. The applicant shall be responsible for filing with the Commission an affidavit of publication to the effect that the notice was published as required by this rule.
 - (viii) The Commission, for good cause shown, may order such additional investigation, further hearings, and required filings as it deems necessary and appropriate to address the issues raised in the application or by parties opposing the issuance of the requested certificate; and
 - (ix) If no significant complaint(s) are filed with the Commission and the Commission does not order a hearing on its own initiative nor order additional investigation, further hearings, or required filings, then the Commission shall consider the application at the Regular Commission Staff Conference as scheduled and, thereafter, issue an order on the application within 30 days after the application is filed, or as near after the 30th days as reasonably practicable. Where the Commission deems issuance of an order on the application within 30 days is impossible, the Commission may issue a notice of decision within 30 days after the application is filed and subsequently issue a final order in the matter.
- (6) Procedure for Expedited Transfer of certificate of public convenience and necessity. — The Commission shall process a petition to transfer a certificate of public convenience pursuant to the CPRE Program as follows:

- (i) Any petition to transfer an existing certificate of public convenience and necessity shall be signed and verified by the electric public utility applicant. A petition to transfer an existing certificate of public convenience and necessity shall also be verified by the entity which was initially granted the certificate of public convenience and necessity that it intends to transfer the certificate of public convenience and necessity to the electric public utility.
- (ii) The Commission will issue an order requesting the Public Staff to investigate the petition and present its findings, conclusions, and recommendations at the Regular Commission Staff Conference to be held on the third Monday following the filing of the application, and requiring the applicant to publish notice of the petition and of the time and place of the Staff Conference where the application will be considered. The notice shall be published once in a newspaper of general circulation in the area where the generating facility is located. The applicant shall be responsible for filing with the Commission an affidavit of publication to the effect that the notice was published as required by this rule.
- (iii) If significant complaint(s) are filed with the Commission prior to the Regular Commission Staff Conference where the petition is to be considered, the Public Staff shall report the same to the Commission and the Commission shall schedule a public hearing to determine whether the petition for transfer of the certificate should be granted. The Commission will give reasonable notice of the time and place of the hearing to the applicant and to each complaining party, and require the applicant to publish notice of the time and place of the hearing. The notice shall be published once in a newspaper of general circulation in the area where the generating facility is located. The applicant shall be responsible for filing with the Commission an affidavit of publication to the effect that the notice was published as required by this rule.
- (iv) If no significant complaint(s) are received within the time specified, the Commission may, upon its own initiative, order and schedule a hearing to determine whether a certificate should be awarded. The Commission will give reasonable notice of the time and place of the hearing to the applicant and require the applicant to publish notice of the time and place of the hearing. The notice shall be published once in a newspaper of general circulation in the area where the generating facility is located. The applicant shall be responsible for filing with the Commission an affidavit of publication to the effect that the notice was published as required by this rule.
- (v) The Commission, for good cause shown, may order such additional investigation, further hearings, and required filings as it deems necessary and appropriate to address the issues raised in the application or by parties opposing the issuance of the requested certificate; and

- (vi) If no significant complaint(s) are filed with the Commission and the Commission does not order a hearing on its own initiative nor order additional investigation, further hearings, or required filings, then the Commission shall consider the petition at the Regular Commission Staff Conference as scheduled and, thereafter, issue an order on the application within 30 days after the application is filed, or as near after the 30th days as reasonably practicable. Where the Commission deems issuance of an order on the application within 30 days is impossible, the Commission may issue a notice of decision within 30 days after the application is filed and subsequently issue a final order in the matter.
- (l) CPRE Program Power Purchase Agreement Requirements
 - (1) Prior to holding a CPRE RFP Solicitation, and on or before the date set by Commission order, the Independent Administrator shall post the pro forma contract to be utilized during the CPRE RFP Solicitation on the IA Website to inform market participants of terms and conditions of the competitive solicitation. The electric public utility shall also file the pro forma contract with the Commission and identify any material changes to the pro forma contract terms and conditions from the contract used in the electric public utility's most recent CPRE RFP Solicitation.
 - (2) Each electric public utility shall include appropriate language in all pro forma contracts (i) providing the procuring electric public utility rights to dispatch, operate, and control the solicited renewable energy facilities in the same manner as the utility's own generating resources; (ii) defining limits and compensation for resource dispatch and curtailments; (iii) defining environmental and renewable energy attributes to include all attributes that would be created by renewable energy facilities owned by the electric public utility; and (iv) prohibiting the seller from claiming or otherwise remarketing the environmental and renewable energy attributes, including the renewable energy certificates being procured by the electric public utility under power purchase agreements entered into under the CPRE Program. An electric public utility may propose redefining its rights to dispatch, operate, and control solicited renewable energy facilities, including defining limits and compensation for resource dispatch and curtailments, in pro forma contracts to be offered in future CPRE RFP Solicitations. In addition, an electric public utility may, within a single CPRE RFP Solicitation, propose multiple pro forma contracts that offer different rights to dispatch, operate, and control renewable energy facilities.
 - (3) No later than 30 days after an electric public utility executes a power purchase agreement pursuant to a CPRE RFP Solicitation, the public utility shall file the power purchase agreement with the Commission. If the power purchase agreement is with an Affiliate, the electric public utility shall file the power purchase agreement with the Commission pursuant to G.S. 62-153(a).
 - (4) Upon expiration of the term of a power purchase agreement procured pursuant to a CPRE RFP Solicitation, a renewable energy facility owner,

other than the electric public utility, may enter into a new contract with the electric public utility pursuant to G.S. 62-156 or obtain a new contract based on an updated market based mechanism, as determined by the Commission pursuant to G.S. 62-110.8(a). If market-based authorized revenue for a generating facility owned by the electric public utility and procured pursuant to this Rule was initially determined by the Commission to be in the public interest, then the electric public utility shall similarly be permitted to continue to receive authorized revenue based on an updated market based mechanism, as determined by the Commission pursuant to G.S. 62-110.8(a). Any market based rate for either utility owned or non-utility owned facilities shall not exceed the electric public utility's avoided cost rate established pursuant to G.S. 62-156. If the electric public utility's initial proposal includes assumptions about pricing after the initial term, such information shall be made available to the Independent Administrator and all participants.

(NCUC Docket No. E-100, Sub 150, 11/06/2017; NCUC Docket No. E-100, Sub 150, 04/09/2018; NCUC Docket No. E-100, Sub 166, 08/31/2020.)